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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,146	03/29/2001	Masayuki Machida	10287.39	3956

27683 7590 04/14/2004

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EXAMINER

SISSON, BRADLEY L

ART UNIT	PAPER NUMBER
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1634

DATE MAILED: 04/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

2M.

Advisory Action

Application No.

09/744,146

Applicant(s)

MACHIDA ET AL.

Examiner

Bradley L. Sisson

Art Unit

1634

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
 2. ☒ The proposed amendment(s) will not be entered because:
 (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ they raise the issue of new matter (see Note below);
 (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
 4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
 6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
 7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 8-11 and 35-37.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
 9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
 10. ☒ Other: PTO-892 attached



Bradley L. Sisson
 Primary Examiner
 Art Unit: 1634

Continuation of 5. does NOT place the application in condition for allowance because: While the amendment seek to introduce the limitation that the target receptors have a length of up to 10 microns, as compared to 1 mm, the proposed limitation is not adequately supported by the specification in terms of written description so that the rejection of claims under 35 USC 112, first paragraph, is overcome. It is noted that the plurality of "target receptors of length up to 10 microns" re also to be "single-stranded nucleic acids of a predetermined base sequence...[and] have the same or different base sequence." US Patent 6,465,241 B2 (Haronian et al.), column 14, second full paragraph, teach that the length of axial rise per nucleotide in DNA is 3.3 Angstroms or 3.3×10^{-4} micrometers. In view of this teaching, applicant's single stranded nucleic acid of a predetermined length would be 30,303 nucleotides long. A review of the disclosure, including applicant's remarks, fails to find an adequate written description of multiple target receptors of this length. Accordingly, the proposed new limitation would not overcome the rejection of claims as failing the written description requirement of 35 USC 112, first paragraph.
